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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,603	11/16/2001	Howard A. Hardee	29002-11270	4747

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LEYDIG, VOIT & MAYER, LTD.
(SEATTLE OFFICE)
TWO PRUDENTIAL PLAZA
SUITE 4900
CHICAGO, IL 60601-6780

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,603

Applicant(s)

HARDEE ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) 1-21 is/are allowed.

6) ☒ Claim(s) 22-28, 30 and 32 is/are rejected.

7) ☒ Claim(s) 29, 31, 33 and 34 is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5/8.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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Information Disclosure Statement

The information disclosure statements of February 15, 2002 and July 9, 2002 are identical; therefore, only the first statement has been reviewed and initialed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 23, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Alivizatos. Alivizatos teaches the method of attaching adjacent parts of a first sheet of fabric material via stitching so as to form a three-dimensional corner (see Fig. 7) and then turning the three-dimension corner inside out to form an inverted, three-dimensional corner (see Fig. 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alivizatos in view of Dehner. As stated above, Alivizatos teaches the limitations of claim

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22, including a first sheet forming an inverted three-dimensional corner. For claims 24 and 26-28, Alivizatos fails to teach a second sheet of material, i.e. waterproof sealing tape, attached to the interior portion of the corner. Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. It would have been

obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Alivizatos, such as is taught by Dehner, to prevent water from entering the bather at those points and to strengthen to the fabric at the seams.

For claim 25, Alivizatos in view of Dehner fails to teach that the sheets are made of polyethylene. (The first sheet is polyester and the second sheet is polyurethane. Note: the heat welding process is mentioned in Alivizatos.) The examiner takes Official notice that polyethylene sheets are well known in the fabric art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the sheets, i.e. using polyethylene sheets instead of polyester and polyurethane sheets, depending on the desired need of the person constructing the bather, e.g. depending on the material readily available, properties of the fabric desired, etc.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alivizatos in view of Dehner. Alivizatos teaches attaching adjacent parts of a first polyester sheet of fabric material via stitching so as to form a three-dimensional corner (see Fig. 7) and then turning the three-dimension corner inside out to form an inverted, three-dimensional corner (see Fig. 8). First for claim 32, Alivizatos fails to teach that the

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sheet (and its pieces 80,82) is made of polyethylene. The examiner takes Official notice that polyethylene sheets are well known in the fabric art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate type of material for the sheet, i.e. using a polyethylene sheet instead of a polyester sheet, depending on the desired need of the person constructing the bather, e.g.

depending on the material readily available, properties of the fabric desired, etc.

Second for claim 32, Alivizatos fails to teach a second sheet of material, i.e. waterproof sealing tape, attached to the interior portion of the corner. Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. It would have been obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Alivizatos, to prevent water from entering the bather at those points and to strengthen to the fabric at the seams.

Allowable Subject Matter

Claims 1-21 are allowed. (The allowable subject matter being the method of constructing a corner in fabric claimed, i.e. a first sheet of fabric is attached to a second sheet of fabric so as to form a three-dimensional corner in which the second sheet extends over an interior portion of the corner and then the corner is turned inside out to form an inverted three-dimensional corner in which the second sheet extends over an exterior portion of the corner.)

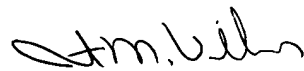
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Claims 29, 31, 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Wilkens
June 26, 2003


JANET M. WILKENS
PRIMARY EXAMINER
ATU 3637